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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Closed Captioning and)
Video Description of Video)
Programming)
)
Implementation of Section 305)
of the Telecommunications Act)
of 1996)
)
Video Programming Accessibility)

MM Docket No. 95-176

To: The Commission

COMMENTS OF THE RADIO-TELEVISION NEWS DIRECTORS ASSOCIATION

The Radio-Television News Directors Association ("RTNDA"), by its attorneys and pursuant to Section 1.430 and 1.415 of the Commission's rules, 47 C.F.R §§ 1.430, 1.415, hereby submits its comments in response to the *Further Notice of Proposed Rulemaking* ("*Further Notice*") in the above-captioned proceeding.¹

RTNDA is the world's largest professional organization devoted exclusively to electronic journalism. RTNDA's membership includes news executives in broadcasting, cable and other

¹ *Closed Captioning and Video Description of Video Programming*, FCC 98-3, released January 14, 1998 (*Further Notice of Proposed Rulemaking* in MM Docket No. 95-176).

electronic media in more than thirty countries. Because much of the responsibility for providing the public with emergency information falls upon newsrooms, the rules adopted in this proceeding have the potential to impact significantly the operations of RTNDA's members.

As evidenced by its comments and reply comments filed in response to the Commission's initial *Notice of Proposed Rulemaking* in this proceeding ("*Notice*")², RTNDA believes that increasing the availability of video programming, particularly news programming to all viewers, including those with hearing disabilities, is an important objective, one which video program providers have strived to meet, with demonstrable success.

The record in this proceeding already demonstrates that, thanks to the voluntary initiatives of broadcasters and cablecasters, the overwhelming majority of network news is closed captioned, and almost 80% of television stations caption their local newscasts. RTNDA believes, therefore, that the Commission's decision not to set separate benchmarks for captioning of live news programming, not to adopt limits on the methodology that could be used to create closed captioning, and

² *Closed Captioning and Video Description of Video Programming*, FCC 97-4, released January 17, 1997 (*Notice of Proposed Rulemaking* in MM Docket No. 95-176).

to permit the use of electronic newsroom ("ENR") captioning was sound. See Closed Captioning and Video Description of Video Programming, Report and Order in MM Docket No. 95-176, released August 22, 1997 ("Order"). As RTNDA and other commenters in the Commission's proceeding maintained, while the benefits of making news and information programming accessible to the largest possible number of viewers are significant, setting artificial, expedited benchmarks for captioning such programming, and/or mandating the use of real-time captioning for news programming, would serve only to reduce materially the quality and quantity of news and public affairs programming available to the general public.

For similar reasons, RTNDA submits that the Commission should eschew imposing an expedited schedule for the captioning of or mandating the captioning methodology to be used in the provision of emergency information. Again, while RTNDA agrees with the Commission's premise that it is important to provide all viewers, including the deaf and hearing impaired, with accurate information regarding emergencies, RTNDA submits that it would be misguided to assume that the only way to ensure that emergency information, including late-breaking or critical safety information, is conveyed to the hearing disabled is through a closed captioning mandate.

Providing the greatest possible number of viewers with important information is the very essence of electronic journalism. There are countless examples across the country of local news organizations shifting into high gear to keep their viewers fully informed in cases where health and safety might be threatened, whether as a result of blizzards in the Northeast, floods in California, or twisters in Florida. In times of weather emergencies, natural disasters, civil disorders or other volatile situations, news organizations often provide round-the-clock coverage, serving as a lifeline to local audiences. Their superb public service efforts routinely extend to providing information to the hearing disabled; indeed, it is in the best interest of electronic journalists that their efforts be directed toward making their programming the programming all viewers turn to in critical situations.

Given this self-interest, as well as their pledge to serve the public interest, it is incumbent upon electronic journalists to transmit critical information to viewers through a variety of high-impact, attention-getting means. In almost all cases, this means that the details of emergency information are transmitted not only aurally, but visually, including through the use of graphics. The majority of viewers, therefore, routinely have

access to pertinent information where health and safety are at risk.

RTNDA acknowledges that, in late-breaking situations, visual scrawls, slides or similar methods may not offer the hearing-impaired the same in-depth reporting or "color commentary" that an audio feed does. RTNDA submits, however, that this proceeding is not about that type of access, but concerns whether viewers with hearing disabilities receive basic emergency information sufficient to protect their health and the safety of persons and property. In crafting its rules, the Commission should keep clearly in mind that, in enacting Section 713, Congress indicated that it did not view the objective of maximizing the accessibility of programming through captioning as an end to be achieved at any cost. Rather, the language of the statute made plain Congress's intention that the FCC's rules should afford due consideration to the economic and other burdens that may attend alternative captioning methodologies as they are applied to various video programming providers.

The costs of mandatory captioning of emergency information would be exponential, and the relative benefit to viewers with hearing disabilities minimal. The record in this proceeding is replete with testimony as to the high cost of captioning, particularly real-time captioning, and the limited supply of

captioners. RTNDA's comments have outlined the debilitating impact any real-time captioning requirement would have on news operations - significantly diverting resources from the provision of local news programming for all viewers (meaning fewer reporters, and fewer beats covered, for example), and even shutting down local news operations in some instances. To require that news organizations have real-time captioners "on call" for closed captioning when emergencies arise, or to require organizations to have to hire full-time staff to produce live closed captions would prove equally as devastating and infeasible. In reality, a captioning requirement could well cripple a station's ability to relay emergency information to viewers immediately, a result which may diminish its timely decisional value to the public in furthering the safety of life and property, thus clearly contravening the public interest.

RTNDA strongly urges the Commission, therefore, to conclude that other methods of visually presenting emergency information will be acceptable in lieu of a closed captioning requirement. An extension of the current broadcast rules to cover emergency information to other multi-channel video programming providers ("MVPDs"), in conjunction with the Commission's existing captioning rules, would be sufficient to address the concerns raised in the *Further Notice*, without imposing further economic

burdens, implementation problems or other complications on those video programmers providing the information.

Specifically, pursuant to Section 73.1250 of the Commission's rules, 47 C.F.R. § 1250, if a television station broadcasts any emergency information (as defined by the rule), it must present the information visually and may present it aurally as well. Stations may use any method of visual presentation which results in a legible message conveying the essential emergency information. In addition to captioning, broadcast stations typically use slides, crawls, mechanical printing or even hand printing to provide emergency information and instruction. Many stations often supplement these visual methods through the use of sign language.

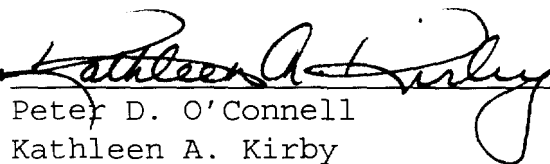
While the rule defines emergency situations as: tornadoes, hurricanes, floods, tidal waves, earthquakes, icing conditions, heavy snows, widespread fires, discharge of toxic gases, widespread power failures, industrial explosions, civil disorders, school closings or changes in school bus schedules, broadcasters extend that definition and routinely offer visual information concerning warnings and watches of impending changes in weather, for example. Extending this broadcast rule to other MVPDs would further the objective of maximizing accessibility to critical program information, while avoiding the economic and

logistical problems associated with a captioning mandate, such as having real-time captioners on-call.

RTNDA, therefore, respectfully submits that the Commission should adopt rules pertaining to the closed captioning of emergency information consistent with RTNDA's comments herein.

Respectfully submitted,

**THE RADIO-TELEVISION NEWS
DIRECTORS ASSOCIATION**

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February 25, 1998